

THE HONORABLE RICARDO MARTINEZ

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KATHARYN KALMBACH, individually and  
on behalf of all others similarly situated,

Plaintiff,

v.

NATIONAL RIFLE ASSOCIATION OF  
AMERICA, a New York Corporation, and  
INFOCISION, INC. d/b/a InfoCision  
Management Corporation, a Delaware  
Corporation,

Defendants.

Case No. 2:17-cv-00399-JPD

**DEFENDANT NATIONAL RIFLE  
ASSOCIATION OF AMERICA'S  
ANSWER TO COMPLAINT**

Defendant National Rifle Association of America ("NRA"), for its answer to plaintiff  
Katharyn Kalmbach's Complaint, states as follows:

**I. NATURE OF THE ACTION**

1. NRA admits the allegations in paragraph 1 of Kalmbach's Complaint.
2. NRA lacks knowledge or information sufficient to form a belief as to the truth or  
falsity of the allegations in paragraph 2 of Kalmbach's Complaint, and therefore denies them.
3. NRA denies the allegations in paragraph 3 of Kalmbach's Complaint.
4. NRA denies the allegations in paragraph 4 of Kalmbach's Complaint.



601441332, and that it conducts advocacy and training, recruits members, and solicits donations in Washington, including in King County, and within the United States.

13. NRA lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 13 of Kalmbach's Complaint, and therefore denies them.

#### IV. SERVICE ON ATTORNEY GENERAL

14. NRA lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 14 of Kalmbach's Complaint, and therefore denies them.

#### V. THE WASHINGTON AUTOMATIC DIALING AND ANNOUNCING DEVICE STATUTE (WADAD), RCW 80.36.400

15. In response to paragraph 15 of Kalmbach's Complaint, NRA: admits that R.C.W. 80.36.400 was enacted in 1986; states that the remaining allegations in paragraph 15 contain legal conclusions to which no response is required; and states that R.C.W. 80.36.400 speaks for itself. To the extent a response is required, NRA admits the remaining allegations in paragraph 15.

16. In response to paragraph 16 of Kalmbach's Complaint, NRA states that paragraph 16 contains legal conclusions to which no response is required. To the extent a response is required, NRA admits the allegations in paragraph 16.

17. In response to paragraph 17 of Kalmbach's Complaint, NRA states that paragraph 17 contains legal conclusions to which no response is required. To the extent a response is required, NRA admits the allegations in paragraph 17.

#### VI. THE WASHINGTON DO NOT CALL ("WDNC") STATUTE, RCW 80.36.390

18. In response to paragraph 18 of Kalmbach's Complaint, NRA admits that R.C.W. 80.36.390 was enacted in the same year as R.C.W. 80.36.400, and states that the remaining allegations in paragraph 18 contain legal conclusions to which no response is required. NRA further states that Kalmbach's WDNC claim has been dismissed, and therefore denies the allegations in paragraph 18.



1           28.     In response to paragraph 28 of Kalmbach's Complaint, NRA admits that, pursuant  
2 to a contract with the InfoCision, InfoCision places calls to current, former, and prospective  
3 NRA members and donors for the purpose of recruiting NRA members and soliciting donations.  
4 NRA denies that those calls solicit people to purchase products or services. NRA lacks  
5 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining  
6 allegations in paragraph 28, and therefore denies them.

7           29.     In response to paragraph 29 of Kalmbach's Complaint, NRA admits that the  
8 screenshot contained therein accurately represents the content of a prior iteration of NRA's  
9 website; states that the website at the link provided in paragraph 29 speaks for itself; and denies  
10 the remaining allegations in paragraph 29.

11           30.     In response to paragraph 30 of Kalmbach's Complaint, NRA admits that it  
12 receives funds from dues-paying memberships, contributions, and gifts, among other sources of  
13 funding.

14           31.     NRA admits that the calls at issue in this case were placed to recruit NRA  
15 members, but denies the remaining allegations in paragraph 31 of Kalmbach's Complaint.

16           32.     In response to paragraph 32 of Kalmbach's Complaint, NRA admits that the  
17 screenshot contained therein accurately represents the content of a prior iteration of NRA's  
18 website; states that the website at the link provided in paragraph 32 speaks for itself; and denies  
19 the remaining allegations in paragraph 32.

20           33.     In response to paragraph 33 of Kalmbach's Complaint, NRA admits that the  
21 membership benefits listed therein accurately represent the benefits made available to NRA  
22 members at certain times prior to the date of this Answer; states that the website at the link  
23 provided in paragraph 33 speaks for itself; and denies the remaining allegations in paragraph 33.

24           34.     NRA denies the allegations in paragraph 34 of Kalmbach's Complaint.

25           35.     NRA denies the allegations in paragraph 35 of Kalmbach's Complaint.

26           36.     NRA denies the allegations in paragraph 36 of Kalmbach's Complaint.

1           37. In response to paragraph 37 of Kalmbach's Complaint, NRA admits that the  
2 screenshot contained therein accurately represents the content of a prior iteration of NRA's  
3 website; admits the website at the link provided in paragraph 37 states as follows:  
4 "Contributions, gifts or membership dues made or paid to the National Rifle Association of  
5 America are not refundable or transferable and are not deductible as charitable contributions for  
6 Federal income tax purposes"; states that the website speaks for itself; and denies the remaining  
7 allegations in paragraph 37.

8           38. NRA lacks knowledge or information sufficient to form a belief as to the truth or  
9 falsity of the allegations in paragraph 38 of Kalmbach's Complaint, and therefore denies them.

10          39. NRA lacks knowledge or information sufficient to form a belief as to the truth or  
11 falsity of the allegations in paragraph 39 of Kalmbach's Complaint, and therefore denies them.

12          40. NRA denies the allegations in paragraph 40 of Kalmbach's Complaint.

13          41. NRA lacks knowledge or information sufficient to form a belief as to the truth or  
14 falsity of the allegations in paragraph 41 of Kalmbach's Complaint, and therefore denies them.

15          42. NRA admits that InfoCision placed calls to Plaintiff in July 2016, but denies that  
16 it makes calls as alleged in paragraph 42 of Kalmbach's Complaint, and therefore denies the  
17 remaining allegations in that paragraph.

18          43. NRA lacks knowledge or information sufficient to form a belief as to the truth or  
19 falsity of the allegations in paragraph 43 of Kalmbach's Complaint, and therefore denies them.

20          44. In response to paragraph 44 of Kalmbach's Complaint, NRA lacks knowledge or  
21 information sufficient to form a belief as to the truth or falsity of Kalmbach's allegation that her  
22 "attempts to reach a live agent were unsuccessful through the calls she was receiving," and  
23 therefore denies that allegation. NRA denies the remaining allegations in paragraph 44.

24          45. NRA denies the allegations in paragraph 45 of Kalmbach's Complaint.

25          46. NRA denies the allegations in paragraph 46 of Kalmbach's Complaint.

26          47. NRA admits the allegations in paragraph 47 of Kalmbach's Complaint.

27          48. NRA denies the allegations in paragraph 48 of Kalmbach's Complaint.

1           49. In response to paragraph 49 of Kalmbach's Complaint, NRA admits that  
 2 Kalmbach asserts claims under the WDNC, WADAD, and WCPA; states that Kalmbach's  
 3 WDNC claim has been dismissed, and therefore no response is required as to that claim; denies  
 4 that Kalmbach's claims have merit; and denies the remaining allegations in paragraph 49.

5           50. In response to paragraph 50 of Kalmbach's Complaint, NRA admits that  
 6 Kalmbach seeks to represent a putative class or classes; admits that Kalmbach seeks the relief  
 7 identified in paragraph 50; denies that the putative classes exist or are capable of being certified;  
 8 denies that Kalmbach is entitled to the relief requested in her Complaint or any other relief; and  
 9 denies the remaining allegations in paragraph 50.

#### 10                               **VIII. CLASS ACTION ALLEGATIONS**

11           51. In response to paragraph 51 of Kalmbach's Complaint, NRA admits that  
 12 Kalmbach seeks to represent a putative class or classes; denies that the putative classes exist or  
 13 are capable of being certified; and denies the remaining allegations in paragraph 51.

14           52. In response to paragraph 52 of Kalmbach's Complaint, NRA admits that  
 15 Kalmbach seeks to represent a putative class or classes; denies that the putative classes exist or  
 16 are capable of being certified; and denies the remaining allegations in paragraph 52.

17           53. In response to paragraph 53 of Kalmbach's Complaint, NRA admits that  
 18 Kalmbach seeks to represent a putative class or classes; admits that, to the extent any class is  
 19 certified, the individuals identified in paragraph 53 should be excluded from the definition of  
 20 such class or classes; denies that the putative classes exist or are capable of being certified; and  
 21 denies the remaining allegations in paragraph 53.

22           54. NRA denies the allegations in paragraph 54 of Kalmbach's Complaint.

23           55. NRA denies the allegations in paragraph 55 of Kalmbach's Complaint.

24           56. NRA lacks knowledge or information sufficient to form a belief as to the truth or  
 25 falsity of the allegations in paragraph 56 of Kalmbach's Complaint, and therefore denies them.

57. In response to paragraph 57 of Kalmbach's Complaint, NRA states that Kalmbach's WDNC claim has been dismissed, and therefore no response is required, and denies the remaining allegations in paragraph 57, including all subparts.

58. NRA denies the allegations in paragraph 58 of Kalmbach's Complaint.

**FIRST CLAIM FOR RELIEF**  
**Washington Automatic Dialing and Announcing Device Statute**  
**(Violations of RCW 80.36.400 et seq.)**  
**(On Behalf of Plaintiff and the Washington State Pre-Recorded Call Class)**

59. NRA restates and incorporates by reference all of the preceding responses as if fully stated here.

60. NRA denies the allegations in paragraph 60 of Kalmbach's Complaint.

61. In response to paragraph 61 of Kalmbach's Complaint, NRA admits that InfoCision placed telephone calls to phone numbers with Washington area codes; lacks knowledge or information sufficient to perform a belief as to whether such calls were received within the State of Washington; and denies the remaining allegations in paragraph 61.

62. NRA denies the allegations in paragraph 62 of Kalmbach's Complaint.

63. NRA denies the allegations in paragraph 63 of Kalmbach's Complaint.

**SECOND CLAIM FOR RELIEF**  
**Washington Do Not Call Statute**  
**(Violations of RCW 80.36.390 et seq.)**  
**(On Behalf of Plaintiff and the Washington State Do Not Call Class)**

64. NRA restates and incorporates by reference all of the preceding responses as if fully stated here.

65. In response to paragraph 65 of Kalmbach's Complaint, NRA states that Kalmbach's WDNC claim has been dismissed, and therefore no response is required. To the extent a response is required, NRA denies the allegations in paragraph 65 of Kalmbach's Complaint.



66. In response to paragraph 66 of Kalmbach's Complaint, NRA states that Kalmbach's WDNC claim has been dismissed, and therefore no response is required. To the extent a response is required, NRA denies the allegations in paragraph 66 of Kalmbach's Complaint.

67. In response to paragraph 67 of Kalmbach's Complaint, NRA states that Kalmbach's WDNC claim has been dismissed, and therefore no response is required. To the extent a response is required, NRA denies the allegations in paragraph 67 of Kalmbach's Complaint.

68. In response to paragraph 68 of Kalmbach's Complaint, NRA states that Kalmbach's WDNC claim has been dismissed, and therefore no response is required. To the extent a response is required, NRA denies the allegations in paragraph 68 of Kalmbach's Complaint.

**THIRD CLAIM FOR RELIEF**  
**Washington Consumer Protection Act**  
**(Violation of RCW 19.86 et seq.)**  
**(On Behalf of Plaintiff and the Washington State Pre-recorded Call Class)**

69. NRA restates and incorporates by reference all of the preceding responses as if fully stated here.

70. NRA denies the allegations in paragraph 70 of Kalmbach's Complaint.

71. NRA denies the allegations in paragraph 71 of Kalmbach's Complaint.

72. NRA denies the allegations in paragraph 72 of Kalmbach's Complaint.

73. NRA denies the allegations in paragraph 73 of Kalmbach's Complaint.

**FOURTH CLAIM FOR RELIEF**  
**(Invasion of Privacy by Intrusion under Washington Law)**  
**(On Behalf of Plaintiff and the Washington State Unsolicited Call Class)**

74. NRA restates and incorporates by reference all of the preceding responses as if fully stated here.

75. NRA denies the allegations in paragraph 75 of Kalmbach's Complaint.

1           76.     NRA denies the allegations in paragraph 76 of Kalmbach's Complaint.

2                               **IX.     PRAYER FOR RELIEF**

3           77.     In response to paragraph 1 of the Prayer for Relief in Kalmbach's Complaint,  
4 NRA denies that Kalmbach is entitled to the requested relief or any other relief.

5           78.     In response to paragraph 2 of the Prayer for Relief in Kalmbach's Complaint,  
6 NRA denies that Kalmbach is entitled to the requested relief or any other relief.

7           79.     In response to paragraph 3 of the Prayer for Relief in Kalmbach's Complaint,  
8 NRA denies that Kalmbach is entitled to the requested relief or any other relief.

9           80.     In response to paragraph 4 of the Prayer for Relief in Kalmbach's Complaint,  
10 NRA denies that Kalmbach is entitled to the requested relief or any other relief.

11          81.     In response to paragraph 5 of the Prayer for Relief in Kalmbach's Complaint,  
12 NRA denies that Kalmbach is entitled to the requested relief or any other relief.

13          82.     In response to paragraph 6 of the Prayer for Relief in Kalmbach's Complaint,  
14 NRA denies that Kalmbach is entitled to the requested relief or any other relief.

15          83.     In response to paragraph 7 of the Prayer for Relief in Kalmbach's Complaint,  
16 NRA denies that Kalmbach is entitled to the requested relief or any other relief.

17          84.     In response to paragraph 8 of the Prayer for Relief in Kalmbach's Complaint,  
18 NRA denies that Kalmbach is entitled to the requested relief or any other relief.

19          85.     In response to paragraph 9 of the Prayer for Relief in Kalmbach's Complaint,  
20 NRA denies that Kalmbach is entitled to the requested relief or any other relief.

21          86.     In response to paragraph 10 of the Prayer for Relief in Kalmbach's Complaint,  
22 NRA denies that Kalmbach is entitled to the requested relief or any other relief.

23          87.     In response to paragraph 11 of the Prayer for Relief in Kalmbach's Complaint,  
24 NRA denies that Kalmbach is entitled to the requested relief or any other relief.

25          88.     In response to paragraph 12 of the Prayer for Relief in Kalmbach's Complaint,  
26 NRA denies that Kalmbach is entitled to the requested relief or any other relief.



1 DATED this 8th day of September, 2017.

2 Respectfully submitted,

3 **BAKER & HOSTETLER LLP**

4  
5 *s/Curt Roy Hinline*

6 Curt Roy Hinline, WSBA #16317

7 James R. Morrison, WSBA #43043

8 999 Third Avenue, Suite 3600

9 Seattle, WA 98104-4040

10 Tel: (206) 332-1380

11 Fax: (206) 624-7317

12 E-mail: [chineline@bakerlaw.com](mailto:chineline@bakerlaw.com)

13 [jmorrison@bakerlaw.com](mailto:jmorrison@bakerlaw.com)

14 Terry M. Brennan (admitted *pro hac vice*)

15 Michael D. Meuti (admitted *pro hac vice*)

16 127 Public Square, Suite 2000

17 Cleveland, OH 44114

18 Tel: (216) 621-0200

19 Fax: (216) 696-0740

20 E-mail: [tbrennan@bakerlaw.com](mailto:tbrennan@bakerlaw.com)

21 [mmeuti@bakerlaw.com](mailto:mmeuti@bakerlaw.com)

22 ***Attorneys for Defendants National Rifle***

23 ***Association of America and InfoCision, Inc.***

**CERTIFICATE OF SERVICE**

I hereby certify that on September 8, 2017, a true and authentic copy of the foregoing Defendant National Association of America's Answer to Complaint was submitted to the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to the following:

Kim D. Stephens  
Chase Christian Alvord  
Tousley Brain Stephens PLLC  
1700 7<sup>th</sup> Avenue, Suite 2200  
Seattle, WA 98101-4416  
Tel: (206) 667-0249  
Fax: (206) 682-2992  
[kstephens@tousley.com](mailto:kstephens@tousley.com)  
[calvord@tousley.com](mailto:calvord@tousley.com)

Steven L. Woodrow  
Patrick H. Peluso  
Woodrow & Peluso, LLC  
3900 E. Mexico Avenue, Suite 300  
Denver, CO 80210  
Tel: (720) 213-0675  
Fax: (303) 927-0809  
[swoodrow@woodrowpeluso.com](mailto:swoodrow@woodrowpeluso.com)  
[ppeluso@woodrowpeluso.com](mailto:ppeluso@woodrowpeluso.com)

Stefan Coleman  
Adam T. Savett  
Law Offices of Stefan Coleman, P.S.  
201 S. Biscayne Blvd., 28<sup>th</sup> Floor  
Miami, FL 33131  
Tel: (877) 333-9427  
Fax: (888) 498-8946  
[law@stefancoleman.com](mailto:law@stefancoleman.com)  
[adam@stefancoleman.com](mailto:adam@stefancoleman.com)

***Attorneys for Plaintiff Katharyn Kalmbach***

s/Serita Smith  
Serita Smith  
Assistant to Curt Roy Hinline